United Nations CRC/C/SR.1852

Convention on the Rights of the Child

Distr.: General
30 April 2014
English
Original: French

Committee on the Rights of the Child
Sixty-fifth session

Summary record of the 1852nd meeting
Held at the Palais Wilson, Geneva, on Thursday, 16 January 2014, at 10 a.m.

Chairperson: Ms. Sandberg

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The meeting was called to order at 10.05 a.m.

Consideration of reports of States parties (*continued*)

Second periodic report of the Holy See on the implementation of the Convention on the Rights of the Child (CRC/C/VAT/2; CRC/C/VAT/Q/2 and Add.1)

1. *At the invitation of the Chairperson, the delegation of the Holy See took places at the Committee table.*

2. **Monsignor Tomasi** (Holy See), recalling the declaration made by the Holy See on ratifying the Convention to the effect that the Convention was a proper and laudable instrument aimed at protecting the rights and interests of children, said that the protection of children remained a major concern for the Holy See. Drawing attention to World Health Organization estimates from 2006, according to which more than 200 million children around the world were victims of sexual abuse, he expressed deep regret that in some cases the perpetrators of such acts had been members of the clergy or ecclesiastical staff. The Holy See had drafted policies and procedures designed to eliminate such abuse and promote cooperation with the authorities in the States concerned to combat those crimes. The Holy See was committed to listening to victims and addressing the impact of abuse on victims and members of their families. Since the competent authorities of the relevant countries had tried and punished the perpetrators of those crimes, the Holy See focused its response in other areas.

3. At the international level, the Holy See was committed to promoting the Convention on the Rights of the Child and its Optional Protocols. As the central body of the Catholic Church, the Holy See had drafted guidelines to facilitate local churches' efforts to develop effective measures to address violations, in line with canonical and national law. The measures taken by the Holy See, as well as by local churches, constituted a framework that, properly applied, would help to eliminate sexual abuse of children.

4. He emphasized that the institutions of the Catholic Church offered social, health and education services to thousands of people and thus contributed to child development and protection all over the world.

5. There could be no excuse for any form of violence against or exploitation of children, whether at home, at school or in religious institutions. That had always been the Holy See's policy. All local church structures and the Holy See were staunch defenders of the dignity and physical, intellectual and spiritual integrity of all children. Pope Francis had recently announced the establishment of a Commission for the Protection of Minors, which would propose measures to create a safe environment for children.

6. **Ms. Oviedo Fierro** (Country Rapporteur) noted with satisfaction that the Holy See had been the fourth State to ratify the Convention and was making efforts to disseminate its provisions. She asked the delegation to explain the functions of the 200,000 Catholic educational institutions, which were attended by more than 50 million children. She wished to know whether those establishments, as well as Catholic dispensaries, contributed effectively to the dissemination of children's rights and the promotion of education for girls, as well as efforts to overcome violence — particularly sexual abuse — against children, discrimination against children born out of wedlock, corporal punishment and neglect.

7. Noting that numerous pontifical councils dealt with issues relating to childhood, she asked whether one of them had a coordinating role, and if the opinions of children were taken into consideration.

8. She enquired why the results of the 2012 Symposium on Sexual Abuse of Minors, held in Rome in February 2012, had not been disseminated, and what follow-up had been

given to the circular letter submitted by the Congregation for the Doctrine of the Faith to the Episcopal conferences, requiring them to develop programmes to ensure the safety of children. She asked what measures the State party had taken to guarantee the implementation of articles 3, 14, 34 and 39 of the Convention, and whether any amendments had already been made to canonical law to define ephebophilia, punish misconduct by members of the clergy, set a framework for cooperation with civil society, establish compensation mechanisms and condemn sexual abuse of minors. She requested further information on the structure and functions of the Commission for the Protection of Minors.

9. Since the Holy See had come out in favour of a zero-tolerance approach to perpetrators of sexual abuse of minors, she asked what measures had been taken to halt persistent attempts to cover up those cases. She wished to know whether the Holy See was ready to communicate precise figures on the number of individuals involved. Recalling that Pope Francis had stressed the need to act firmly and bring perpetrators of sexual abuse to justice, she asked whether measures had been taken in that regard.

10. **Ms. Wijemanne** (Country Rapporteur) called on the Holy See to withdraw its reservations to the Convention. She enquired whether the State party intended to incorporate the Convention on the Rights of the Child into its domestic legislation, and asked what measures had been taken to establish complaints mechanisms that would enable all children to report, in complete confidentiality, any violence to which they had been subjected. She also wished to know what measures had been taken to include the provisions of the Convention in school curricula and training programmes for teachers in Catholic schools; to remove discriminatory expressions, such as "illegitimate child", from canonical law; to promote the child's right to be heard; and to apply the principle of the best interests of the child in all programmes, policies and procedures to do with children. She asked the delegation to give specific examples of measures taken by the State party to address the root causes of abandoning infants in "baby boxes" and to improve access to reproductive health services. She wished to know what measures had been taken to eliminate the increasing number of cases of violence against children, particularly corporal punishment, and whether the Holy See promoted non-violent types of discipline.

11. Underscoring that the scars left by sexual abuse never faded completely, she asked what measures had been taken to support victims. She asked whether the Holy See intended to stop reassigning members of the clergy found to have committed sexual abuse against minors to other parishes, and to stop allowing them contact with children.

12. She considered that, rather than remaining silent on the matter of sexual abuse of children by the clergy, the Holy See should aim to ensure that the perpetrators of such violence were systematically denounced to the judicial authorities in the relevant States and suspended from duty. That, she believed, was the only way to prevent reoffending and eliminate that scourge at the heart of the Church. She wished to know why the State party qualified those acts as violators of morality, rather than crimes against children, and whether the Holy See could foresee incorporating into canonical law an obligation to report such acts and bring an end to the stigmatization of victims by offering them the possibility to file a confidential complaint.

13. Lastly, given the large number of Catholic institutions that looked after children around the world, she wished to know what procedures the State party had put in place to ensure the entry into force of the 1993 Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption, which it had ratified.

14. **Mr. Kotrane** asked whether the Holy See had plans to ratify any other international human rights instruments, in particular the Convention on the Elimination of All Forms of Discrimination against Women.

15. Noting with satisfaction Pope Francis' forward-looking attitude with regard to children born out of wedlock, he asked what measures the State party had taken to guarantee such children rights equal to those of children born of married parents, notwithstanding Canonical Rule No. 1139, which discriminated against "illegitimate" children. Lastly, he asked what measures the State party had taken to remove references in school textbooks to the different roles of girls and boys, which resulted in the impression, supported by the Catholic Church, that men and women were not equal but complementary.

16. **Ms. Khazova** pointed out that, even if, as stated in paragraph 23 of the State party's report, "The source of the rights of the child is his inherent dignity as a human being created in the image and likeness of God", and "The child's rights ... precede any convention", there was nothing to stop children from being considered as independent subjects of law, who were entitled to express their opinion, since the child's right to be heard, as enshrined in the Convention, was not incompatible with parents exercising their parental rights. She wished to know whether the State party would consider relaxing its particularly restrictive approach to the child's right to be heard. She asked what was preventing the State party from embracing the principle of the best interests of the child, respect for which would not be to the detriment of the exercise of parental rights.

17. **Mr. Cardona Llorens** asked to what extent the rights enshrined in the Convention were taught to persons intending to enter the priesthood, given that most of them would have contact with children in the performance of their duties.

18. **Mr. Madi** asked whether the State party intended to prohibit corporal punishment in Catholic schools and institutions around the world.

19. **Mr. Nogueira Neto** asked whether children registered in a Catholic school had the right to practise a religion other than Catholicism, and whether their parents were free to make that decision.

20. **Ms. Parsi** asked whether the Holy See recognized paedophilia as a curable illness, and whether therapy could be suggested as a treatment for priests who were guilty of such acts.

21. **Ms. Winter**, noting that the privileges and immunities of members of the clergy differed from country to country, said it would be useful for the Committee to know the content of the concordats between the Holy See and the different countries of the world.

22. **Ms. Aloseri** asked whether the State party was considering establishing a comprehensive data-collection system, which would facilitate the systematic evaluation of the implementation of the Convention in all areas, and follow-up on abuse — sexual and other — against children.

23. **Mr. Gastaud** asked whether the State party was considering ratifying the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

The meeting was suspended at 11.40 a.m. and resumed at 12.05 p.m.

24. **Monsignor Tomasi** (Holy See) said that the Holy See's competence extended beyond national borders and that efforts were being made to encourage the community of believers to apply the principles enshrined in the Convention in order to guarantee the well-being of children.

25. The establishment of the Commission for the Protection of Minors could be considered a first step towards setting up an independent body to receive complaints from minors directly.

26. Priests were educated on the principles of the Convention during their training, but were not employed by the Vatican and were therefore under the jurisdiction of the countries

in which they performed their duties. Recalling that the Wesołowski case was ongoing, he stated that the Archbishop, who was a citizen of the Holy See, would be judged with the severity warranted by the acts of which he stood accused.

27. The Holy See was currently reconsidering its reservations to the Convention. Any change in that regard would be communicated in due course.

28. The difference between Koranic or other schools and Catholic schools was that the curricula taught in Catholic schools were approved by the education authorities of the country concerned. Around 60 per cent of pupils of Catholic schools did not profess the Catholic faith.

29. **Ms. Oviedo Fierro** (Country Rapporteur), requesting details of the composition of the Commission for the Protection of Minors, noted that representatives of civil society, including victims of illicit acts committed by members of the clergy, should be represented. She also enquired under which State's legislation Apostolic Nuncio Monsignor Józef Wesołowski would be prosecuted.

30. **Monsignor Tomasi** (Holy See) replied that Monsignor Wesołowski would be tried under the law of the Vatican City State, in line with international law, which provided that diplomatic agents were tried under the legislation of the country of which they were nationals.

31. The Commission had not yet been fully established and the names of its members had not yet been announced.

32. **Mr. Kotrane** asked what measures the Holy See was taking to ensure that religious education provided in Catholic schools was not used to transmit principles that were contrary to universal values. He would like the delegation to comment on the statement in paragraph 23 (k) of the State party report that "parental duties and rights are violated when educational programmes or classes are imposed by the State over their objections".

33. **Monsignor Tomasi** (Holy See) said that parents' rights took precedence. The State's role was to ensure that schools did not become an instrument for incitement to hatred.

34. Statistics on cases of sexual abuse committed by members of the clergy were included in the Holy See's annual statistical report.

35. Like most States, the Holy See was revising its terminology with regard to children born out of wedlock, in order to prevent any discrimination against them.

36. **Monsignor Scicluna** (Holy See) said that the Holy See's jurisdiction was spiritual and did not take precedence over the jurisdiction of States. Although local churches, bishops or the superiors of congregations, when informed about acts of sexual abuse committed by members of the clergy, were obliged to institute an investigation and inform the Congregation for the Doctrine of the Faith, that procedure was not intended as a substitute for the measures that should be taken in the State where the acts had been committed. In its guidelines, dated 3 May 2011, for dealing with cases of sexual abuse of minors perpetrated by clerics, the Holy See had stated that local churches and religious communities must "make allowance for the legislation of the country where the Conference is located, in particular regarding what pertains to the obligation of notifying civil authorities".

37. **The Chairperson** recalled that in 2001 the Vatican had congratulated Bishop Pierre Pican de Bayeux on having refused to give information on a paedophile priest to the police.

38. **Monsignor Scicluna** (Holy See) said that it was not the Holy See's policy to cover up acts of paedophilia.

39. **Ms. Oviedo Fierro** (Country Rapporteur) said that the Committee would welcome information on that change of attitude, in particular statistics on the number of priests brought before the courts for such offences in different countries.

40. **Monsignor Scicluna** (Holy See) said that the only available statistics in that regard were on the number of new cases reported to the Congregation for the Doctrine of the Faith published in the Holy See's annual statistical report. The Holy See did not have statistics on the conduct and results of legal proceedings in other countries.

41. The procedure under canonical criminal law, which was internal to the Holy See and not a substitute for States' criminal law procedures, provided for three possible verdicts: guilty, innocent, or guilt not established. In the latter case, the assignment of the person concerned would remain to be decided.

42. In 2010, Pope Benedict XVI had revised the *Motu Proprio* issued by Pope Jean-Paul II in 2001 on measures to address serious crimes, in order to accelerate proceedings in serious cases. Canonical law provided for spiritual and pastoral punishment, including removing a member of the clergy from office. Pope Benedict XVI had also established a system for cancelling the statute of limitations on a case-by-case basis. All proceedings must follow the principles of natural justice, including in particular the presumption of innocence and the right to a defence.

43. Rehabilitation was a very important aspect of prevention. Churches and local religious communities were taking measures to ensure the rehabilitation of victims as well as perpetrators of sexual abuse, particularly through the medium of respectful listening.

44. **Mr. Cardona Llorens** said that the guidelines for dealing with cases of sexual abuse of minors perpetrated by clerics should not be restricted to making allowance for the legislation of the country where the Conference was located regarding the obligation of notifying civil authorities, but rather should require that sexual abuse be reported in all cases. He asked whether there were any internal instructions providing that, in the case of guilt not being established, the member of the clergy concerned must no longer be allowed to be in contact with children.

45. **Ms. Herczog** asked what cooperation took place between national authorities and the Holy See in cases of sexual abuse. Noting that, in 2011, the Holy See had stated in the Italian press that, of the cases of sexual abuse pertaining to members of the clergy the previous year, 60 per cent had been committed against adolescents of the same sex, 30 per cent had involved heterosexual relations and only 10 per cent could truly be considered acts of paedophilia, she asked if that had meant that 90 per cent of those cases could not be censured by the Church. She recalled that, under the Convention, a child was understood to be any human being below the age of 18 years.

46. **Monsignor Scicluna** (Holy See) said that sexual abuse against minors was defined in canonical law as acts of a sexual nature committed against a person below 18 years of age. It was essential to strengthen the role of local churches and religious communities. It was important that those churches and communities should run education programmes and take measures to protect children in the family, schools and parishes.

Initial report of the Holy See on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (CRC/C/OPSC/VAT/1; CRC/C/OPSC/VAT/Q/1 and Add.1)

47. **The Chairperson** (Country Rapporteur for the Optional Protocol on the sale of children, child prostitution and child pornography) said it was extremely important that the Holy See, as the highest authority of the Catholic Church, should provide any data it had at its disposal on offences under the Optional Protocol committed by members of the clergy

since 2001, which would help to clarify the facts, ensure that those responsible were held accountable for their actions and prevent further violations of the Optional Protocol.

48. She asked whether the Holy See intended to allocate human, financial and technical resources to the implementation of the Optional Protocol. She also wished to know which body was responsible for coordinating that implementation.

49. She further enquired if, in the event that the Holy See was informed about cases of sexual abuse committed against a child or cases of child pornography, it ascertained from the children concerned how they had been treated and the assistance they might need, and whether the best interests of the child were taken into account systematically.

50. She requested the delegation's comments on the lack of transparency in the Holy See's internal procedures for dealing with suspected perpetrators of offences under the Optional Protocol and on the fact that victims did not seem to participate in those procedures.

51. She wished to know whether the Commission for the Protection of Minors would be able to receive complaints from child victims of offences under the Optional Protocol.

52. She would also appreciate further information on the number of infants taken from their mothers in the Magdalene Laundries and on the measures taken to reunite mothers and children. She also requested the disclosure of all available information on the situation of those children.

53. She asked how exactly the State party was cooperating with the Spanish authorities regarding the case of the thousands of babies who had been stolen from their parents in Spain and sold to childless couples through a secret network of doctors and nurses, priests and nuns, over a long period extending up until the early 1990s.

54. She also asked why the Holy See was not taking the initiative to cooperate with States on the issue of assistance to child victims, as provided for under article 10, paragraph 2, of the Optional Protocol, or to establish its own assistance programme instead.

55. On several occasions the Holy See had refused to cooperate with law enforcement services in States and to assist national investigation commissions; it would be interesting to know whether there had been a change of attitude in that regard since the adoption, in 2011, of the guidelines for dealing with cases of sexual abuse of minors perpetrated by clerics.

56. **Mr. Cardona Llorens** asked whether those responsible for the administration of religious institutions, such as orphanages, were trained in preventing the sale of children.

57. **Ms. Oviedo Fierro** asked the delegation to provide any data that it might have at its disposal on the number of cases of sale of children and child pornography linked to cases of sexual abuse committed by priests.

58. **Ms. Herczog** asked whether the State party provided support to non-traditional families, such as same-sex partners, single-parent families, and stepfamilies, and to the children living in those families. She also wished to know the State party's stance with regard to domestic violence, in particular marital rape.

59. **Ms. Wijemanne** asked whether there was an independent monitoring mechanism in place to oversee the situation in orphanages administered by religious authorities, to, inter alia, prevent the sale of children.

60. **Ms. Winter** asked whether Vatican City State had amended its laws to bring them into line with the Optional Protocol, particularly with regard to the definition of offences under that instrument.

61. **The Chairperson** asked whether those definitions had also been included in canonical law.

The meeting rose at 1 p.m.